

REMARKS

DETAILED ACTION

Claim Rejections – 35 USC § 103

Claims 1, 5, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darby in view of Paleiov et al (US 6,560,320) and in view of Roeder (US 2002/0111176).

The Examiner has again failed to add the Irizarry reference which is described below in the text. Further, the Examiner cannot just add elements from different prior art and state that it was obvious. The MPEP states that the Examiner must point to a known problem to be solved and there must be a suggestion in the references to combine. The Examiner has never made any such statement showing the combination of references. Here the Examiner has taken four different references to find the claims obvious. The Examiner must show a suggestion to combine all four references.

The Examiner states that Darby does not teach a display panel being customizable and the device including a stylus. The Examiner then points to Paleiov as having these features. The Examiner does not state that there is any motivation for Darby to require this or even put it in as an option. The Examiner states that in a similar application arrangement of providing an interactive display unit for telephone services. The Examiner states that Paleiov teaches customizable keys (user display shown in figure 1, as item 38 and describes the use of custom graphic keys in col. 6, lines 15-20, and 55-65). Paleiov notes that

the custom display allows service providers to better construct the graphic applications, allowing for faster more efficient service with enhanced functionality (Paleiov teaches the advantages of the custom graphic keys providing faster more efficient services with enhanced functionality, col. 2 lines 26-45). The Examiner states that it would have been obvious to modify Darby to provide customizable keys in order to allow the service provider to better construct the graphic applications allowing for faster more efficient service with enhanced functionality as taught by Paleiov.

Nowhere in Darby are graphic applications discussed. Therefore, the Examiner's statement regarding being obvious to modify cannot be considered.

The Examiner states that Darby lacks a teaching of the device including a stylus, but states that Paleiov teaches the use of a stylus, col. 6 lines 45-55. The Examiner states that it would have been obvious to modify Darby to use a stylus as taught by Paleiov in order allow the users of the device to more easily pick out the touch sensitive keys.

Darby lists a whole realm of features regarding the screen and keyboard in paragraph 15 but leaves these features out. The device of Darby would have completely be changed in order for it to be usable with a stylus. In fact, a stylus is usually attached to the device and there is nowhere in Darby for such an attachment to occur.

Paleiov teaches a telephone communication unit which is not mobile. There is no reason to combine Paleiov with Darby. Paleiov describes a display on

Col. 6, lines 45-50 which has a pressure sensitive region on which the user writes characters with a suitable stylus. There is no teaching in Darby to have a pressure sensitive region. Further, why would Darby have a stylus, when there is nothing on the device of Darby to use a stylus on.

The Examiner states that Darby lacks a teaching of the device being waterproof. The Examiner points to Irizarry to teach a waterproof case for a cellular phone. The Examiner does not state that Irizarry is a reference in the 103 rejection. The title of Irizarry is Cellular Telephone Case. Irizarry teaches a cell phone case for a cellular telephone being waterproof. Irizarry teaches the case will prevent damage to the phone even during a drop into water. Irizarry describes the advantages of the waterproof case on col. 2 lines 1-25. Note that a case that would prevent entry of liquid would also prevent sand particles from intruding into and damaging the device.

The claims of the patent require that the device, the hand held wireless device be waterproof and sand proof, not the case for the device. The Examiner adds this extra element of a waterproof case in his rejection, however, this is not an element of the claim nor is this taught by the patent application.

Further, if the device of Darby were placed in the case of Irizarry, the device could not include the stylus of Paleiov. There would be no place to place the stylus, and there would be nowhere to use the stylus

The Examiner states that Darby's device has stored in it numbers which would be of interest to a guest. The Examiner states that Darby describes its

use as a hotel room information appliance at the end of paragraph 31 and paragraph 44. The Examiner states that Darby teaches the pocket concierge being loaded with the internal phone directories in paragraph 45. The Examiner states that Darby lacks a teaching of the device being loaded with all numbers that would be of interest to a user. It would have been obvious to load the hotel directory with all number that would be of interest in order to increase the usefulness of the device for users.

There is nothing in Darby to state that the device of Darby would receive calls from a guest room to the device. Darby's device relates to call centers. There is no reason to transfer calls from the guest room to the device of Darby. Just by saying that it is known to transfer a call, does not mean that you can add that feature to Darby where it would not make sense to add that feature since Darby relates only to call centers.

Darby also lacks a teaching of transferring all calls of a guest from a room phone to said device. The Examiner states that Roeder teaches that it is well known to transfer phone calls from one phone to another such as a mobile phone (Roeder describes the well known call forwarding process in paragraph 3. Roeder teaches that the stationary phone could be an internal PBX extension that had its calls forwarded to a mobile device in paragraph 59. Roeder notes that it is advantageous to transfer calls from a stationary phone to a mobile phone when a user is away from the stationary phone in paragraph 12.) It would have been obvious to modify the arrangement of Darby in view of Paleiov

to forward calls from a stationary phone, including an internal PBX extension, such as a hotel room phone to the mobile in order to ensure that the user did not miss calls when they were away from the stationary phone as taught by Roeder.

Darby relates to a phone connected to a call center. The call center can then assist the caller. There is no teaching to have a user's calls from a guest room phone to the device. For all of the above reasons claim 1 is not obvious over the prior art.

As to claim 5, the Examiner states that Darby's pocket concierge fits inside a person's pocket. The device is implemented on a pocket pc, paragraphs 10 and 15. Pocket PC's are designed to fit inside a person's pocket. For the reasons stated above for claim 1, claim 5 is not obvious over the prior art.

As to claim 13, the Examiner states that Darby's device can track a person's whereabouts who has possession of said device (Darby describes the location tracking capability in paragraphs 27 and 33). For the reasons stated above for claim 1, claim 13 is not obvious over the prior art.

As to claim 14, the Examiner states that Darby's host computer system provides feedback to a user, in response to requests for services. (Darby's host computer system, the software implemented call center agent, paragraph 31, provides real time responses to a user as described in paragraph 32. The use can also be provided direct sales service as described in paragraph 36.)

For the reasons stated above for claim 1, claim 14 is not obvious over the prior art.

As to claim 15, the Examiner states that Darby's host computer system provides feedback to a host. (The software implemented call center agent, paragraph 31, provides real time responses to a user as described in paragraph 32. The user feedback, the requests for information or direct sales transaction histories can be used by the host to provide follow on marketing, paragraphs 36, 37. The claimed host is analogous to Darby's serving call center or service providers.

For the reasons stated above for Claim 1, claim 15 is not obvious over the prior art.

Claim 3 is rejected under 35 USC 103(a) as being unpatentable over Darby in view of Paleiov and view of Roeder and in view of Shaffer et al. (US 6,377,798).

Darby in view of Paleiov lacks a teaching of the mobile telephone device including a pager. Shaffer teaches a mobile telephone including a pager. (Shaffer shows the combined pager and cellular phone in figure 2, and describes it in col. 2 lines 58-65). Shaffer teaches that pagers provide mobile communication at lower cost, while using less power than the mobile phone (Shaffer col. 1, lines 10-15). It would have been obvious to modify the device of Darby in view of Paleiov to include a pager in order to provide mobile

communication at lower cost and lower power consumption, as taught by Shaffer.

Again, the Examiner must add Irizarry to the list of prior art mentioned as that is a feature of Claim 1 to which Claim 3 is dependent on. Again, the Examiner has not shown any reason why Shaffer should be combined with the other references. The Examiner states that one should combine the references because to provide mobile communication at lower cost and lower power consumption. However, this is not a concern or issue with any of the other references. Since the only solution of Darby is a call center, there is no justification to adding a pager. Some of the references teach a mobile phone while other references teach a stationary phone. Therefore Claim 3 is not obvious over the prior art.

Claims 7 and 8 are rejected under 35 USC 103(a) as being unpatentable over Darby in view of Paleiov in view of Roeder and in view of Hase (US 2002/0183078).

The Examiner states that with regard to claim 7, Darby in view of Paleiov fails to teach the device wherein a user's room key functions as an access code to the device. Hase teaches a hand held communicator unit with an ID card functioning as an access code to the device. (Hase shows the device as a cardholder in Fig. 2, and paragraph 36, describes the communication functions of the holder. In paragraph 33, Hase notes that the ID card could be a hotel guest's room key card. Hase describes the use of the ID or room key card to

activate the communication device in paragraph 37). It would have been obvious to modify Darby in view of Paleiov to include a storage area for a user's room key as taught by Hase in order to provide the user with a place to keep their room key as well as security of only allowing use with an appropriately coded ID or room card.

With regards to claim 8, the Examiner states that Darby in view of Paleiov fails to teach the device comprising a storage area for a user's room key. Hase teaches a hand held communicator unit with a storage area for a room key card. Hase also teaches that the ID card being held is used as the access code to use the wireless device. It would have been obvious to modify Darby in view of Paleiov to include a storage area for a user's room key in order to provide the user with a place to keep their room key while also providing the added security of only allowing use of the device with an appropriately coded ID or room card as taught by Hase.

Again, the Examiner must list Irizarry as a reference and therefore show that the combination of the above five references is taught in those references. Hase specifically teaches the use of an ID card holder. Further, because the Examiner has already combined the references to add the case of Irizarry, there cannot be a cardholder with the case of Irizarry. There is nothing in Darby or any of the other prior art references which teach the need of a separate device to access the device. In fact Darby specifically mentions several ways to access the device, none of which include a room key. The fact that Hase teaches a

separate holder for an ID card and that none of the other devices teach this holder, shows that the Darby device must be completely changed in order to include the teachings of Hase. There can be no separate card holder with the case of Irizarry.

For all of these reasons, Claims 7 and 8 are not obvious over the prior art.

Claim 9 is rejected under 35 USC 103(a) as being unpatentable over Darby in view of Paleiov and in view of Roeder and in view of Haraguchi et al. (US 4,979,205).

The Examiner states that Haraguchi teaches a type of wireless telephone unit with a rechargeable battery. Some of the prior art references teach a non-mobile/non wireless phone unit. There is nothing shown or taught in Darby that describes the need or the problem to be solved with a rechargeable battery. Therefore, there is no teaching to combine the references.

Therefore, Claim 9 is not obvious over the prior art.

Claim 12 is rejected under 35 USC 103(a) as being unpatentable over Darby in view of Paleiov in view of Pepe et al. (US 5742668).

Claim 12 was previously cancelled. The Examiner did not address this issue with regard to claim 1, which now adds a fifth reference for an obvious rejection.

Applicant believes that the application is now in condition for allowance.

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